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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/973,776

10/11/2001

Michael C. Dapp

02890037AA

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7590

07/18/2006

MILES & STOCKBRIDGE PC  
1751 PINNACLE DRIVE  
SUITE 500  
MCLEAN, VA 22102-3833

EXAMINER

HENEGHAN, MATTHEW E

ART UNIT

PAPER NUMBER

2134

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.		Applicant(s)	
	09/973,776		DAPP, MICHAEL C.	
	Examiner		Art Unit	
	Matthew Heneghan		2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-15 is/are allowed.
- 6) ☒ Claim(s) 16, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/27/06, 4/18/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 27 February 2006 has been entered.

2. In response to the previous office action, Applicant has amended claims 1, 11, and 17. Claims 1-20 have been examined.

### ***Information Disclosure Statement***

3. The following Information Disclosure Statements in the instant application have been fully considered except as otherwise noted:

IDS filed 27 February 2006.

IDS filed 18 April 2006.

4. In the IDS filed 27 February 2006, the tenth and eighteenth items on sheet 1 and the fourth item on sheet 2 were citations of invalid patent publication numbers. The

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seventh reference on sheet 5 was not found in the file wrapper. These references have not been considered.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 16, 19, and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,321,338 to Porras et al.

As per claim 16, Porras discloses a hierarchical network surveillance system wherein information is gathered by service monitors, sent up to domain monitors, and then passed on to enterprise monitors (see column 3, line 55 to column 4, line 47). Countermeasures at lower nodes may be dictated by higher nodes (see column 12, lines 7-19). Data may be collected and forwarded for attacks of unknown origin, such as spoofing or anonymous FTP attacks (see column 7, lines 43-54). Logging facilities store data forwarded from a monitor (see column 4, line 61 to column 5, line 29). A log of all TCP/IP packets, for example, is disclosed. TCP/IP packets in a wide area network have a determinable destination, but may or may not be traceable to their original source.

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Since the packets are being associated with event streams, it is inherent that identifiers be used with those packets in order to uniquely associate them with their respective streams; were this not the case, a receiver of the sets of data would not be able to keep the streams properly sorted and would therefore be unable to perform the additional analysis disclosed by Porras. Communications among monitors may be done via a subscription scheme, thus segregating it from user traffic and making it user-transparent.

As per claim 19, a VPN is used, which is secure.

Regarding claim 20, since the communications are user-transparent, the hierarchy is also hidden to users.

***Allowable Subject Matter***

6. Claims 1-15 are allowed for the reasons stated in the previous office action.
7. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable for the reasons stated in the previous office action regarding claim 1 if rewritten in independent form including all of the limitations of its base claim and any intervening claims.
8. Claim 18 is objected to as being dependent upon a rejected base claim, but would be allowable for the reasons stated in the previous office action if rewritten in

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independent form including all of the limitations of its base claim and any intervening claims.

### ***Response to Arguments***

9. In view of Applicant's arguments filed 18 April 2006, the grounds of rejection have been modified in order to clarify the grounds of rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques, can be reached at (571) 272-6962.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Or faxed to:**

(571) 273-3800

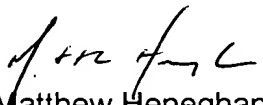
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEH

July 6, 2006

  
Matthew Heneghan, USPTO Art Unit 2134